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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) No. CR 14-0196 CRB  
Plaintiff, )  
v. ) UNITED STATES' STATEMENT REGARDING  
KWOK CHEUNG CHOW, et. al. ) ELECTION OF COUNTS AND DEFENDANTS  
Defendants. ) FOR FIRST TRIAL  
Defendant. )

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1           **I. INTRODUCTION**

2           On November 12, 2014, the Court upheld the legitimacy of the Superseding Indictment by  
3 denying all motions for severance based on misjoinder under Rule 8(b) of the Federal Rules of Criminal  
4 Procedure. With the ruling that the defendants were all properly joined, the Court turned to the prospect  
5 of trial(s) and the fact that all 28 defendants cannot be tried together. The Court expressed an interest in  
6 having a prompt trial of Count Two of the Superseding Indictment – the Senator Yee campaign RICO  
7 conspiracy – and those counts and defendants that could be tried in conjunction with Count Two. The  
8 government agrees with that suggestion by the Court. The Court also requested that the government file  
9 a statement regarding its election of the counts and defendants that would make sense to be tried in the  
10 first group. The government hereby files this statement in compliance with the Court's request.

11           **II. ELECTED GROUPING FOR TRIAL ONE**

12           The government would elect to try all counts except Count One – the Chee Kung Tong RICO  
13 Conspiracy – against the following defendants: Senator Leland Yee, Keith Jackson, Brandon Jackson,  
14 Marlon Sullivan, Rinn Roeun, and Barry House. The Counts tried would be as follows:

- 15           ■       Count 2 (RICO Conspiracy) against defendants Yee and Keith Jackson;
- 16           ■       Count 110 (Narcotics Conspiracy) against defendants Keith Jackson, Brandon Jackson,  
17           and Sullivan;
- 18           ■       Counts 152, 165-66 (Dealing Firearms Without a License) against defendants Keith  
19           Jackson and Brandon Jackson;
- 20           ■       Counts 158-59, 171 (Dealing Firearms Without a License) against defendants Keith  
21           Jackson, Brandon Jackson, and Sullivan;
- 22           ■       Count 174 (Murder for Hire) against defendant Roeun;
- 23           ■       Counts 184, 188, 195, 209 (Dealing Firearms Without a License) against defendant  
24           Roeun;
- 25           ■       Count 204 (Murder for Hire) against defendants Keith Jackson, Brandon Jackson, and  
26           Sullivan;
- 27           ■       Count 210 (Dealing Firearms Without a License) against defendants Keith Jackson and  
28           House;

- 1      ■      Counts 211-12 (Felon in Possession of a Firearm) against defendant House;
- 2      ■      Counts 213-14 (Extortion Conspiracy) against defendants Yee and Keith Jackson;
- 3      ■      Count 215 (Honest Services Fraud Conspiracy) against defendants Yee and Keith
- 4      ■      Jackson;
- 5      ■      Counts 216-221 (Honest Services Wire Fraud) against defendants Yee and Keith
- 6      ■      Jackson;
- 7      ■      Count 222 (Weapons Conspiracy) against defendants Yee and Keith Jackson.

### 8      **III. RATIONALE FOR GROUPING**

9      The proposal by the government would accomplish a number of important objectives in moving  
10 the overall case forward:

- 11     ■      it would be limited to several simple and discrete pieces of the case,
- 12     ■      it could proceed to trial promptly,
- 13     ■      it would include charges the evidence for which would be admissible to prove defendant
- 14     ■      Keith Jackson's guilt on Count Two, even if that were the only charge being tried,
- 15     ■      it would effectively cover almost all criminal charges against six of the 28 defendants in
- 16     ■      the case, rather than having an entire trial and resolving the majority of charges against
- 17     ■      only two defendants,
- 18     ■      it would resolve the majority of the case as to several defendants who are in custody and
- 19     ■      have complained of the time the case may take to proceed to trial,
- 20     ■      there would be no prejudice to any defendant from the evidence presented as to other
- 21     ■      defendants,
- 22     ■      it would involve the same primary government witnesses as a trial of only Count Two
- 23     ■      (UCE 4599, UCE 4779, and UCE 4180), and
- 24     ■      it would involve the same primary type of evidence as a trial of only Count Two (body
- 25     ■      wire recordings and wiretap recordings).

26      The over-arching reason why the government proposes to try the defendants and charges listed  
27 above in the trial on Count Two is that the evidence regarding the charges is related and intertwined.  
28 The starting place in this analysis is the Court's statement that it wishes to proceed with Count Two at

1 the first trial. Count Two alleges a RICO conspiracy related to the conduct of the campaigns of Senator  
2 Yee to run for Mayor of San Francisco and then for California Secretary of State. From May 2011  
3 through March 2014, in an effort to collect money for these campaigns and for themselves, defendants  
4 Yee and Keith Jackson solicited bribes from undercover employees (UCEs) and confidential human  
5 sources (CHSs). This was not, however, the totality of the criminal activities engaged in by the  
6 defendants. As set forth in Count Two and in the correlated conspiracy and substantive offenses alleged  
7 in the Superseding Indictment, Senator Yee and Keith Jackson also engaged in extortion in violation of  
8 the Hobbs Act. Further, Senator Yee and Keith Jackson conspired to deal illegally in weapons from  
9 various international sources in exchange for payments of money, including campaign donations.

10 Obviously, the charges in the Superseding Indictment that allege wire fraud, conspiracy to  
11 defraud, extortion, and conspiracy to illegally sell and import weapons that correlate to the RICO  
12 activities alleged in Count Two should be tried with Count Two. There is also an evidentiary  
13 relationship between these charges – in particular the weapons conspiracy – and the firearms, narcotics  
14 dealing, and murder-for-hire charges alleged in the indictment. These offenses and events are  
15 intertwined to a large degree and provide the essential background to understanding how and why Keith  
16 Jackson initiated discussions with UCE-4599 about Senator Yee being in a position to offer assistance in  
17 procuring weapons for UCE 4599. Without that background, the jury cannot properly understand  
18 Jackson's criminal intent, Senator Yee's involvement, and the rationale for the arrangement.

19 The backstory to Keith Jackson's involvement with the UCEs began with Chow introducing  
20 Jackson to UCE 4599 in 2011. In short order following the initial introduction, Jackson solicited illegal  
21 campaign contributions for Senator Yee's mayoral campaign from UCE 4599. UCE 4599 demurred, but  
22 introduced Jackson to UCE 4773. The bribes to Senator Yee flowed from that relationship and were  
23 followed by bribes being paid by UCEs 4599 and 4180 to Senator Yee during 2012 and 2013 as Yee got  
24 his campaign for California Secretary of State underway.

25 During the evolution of that politically corrupt relationship, Keith Jackson was not content to sit  
26 idly by on other criminal opportunities. During the time that Senator Yee and Jackson were engaged in  
27 criminal activities in furtherance of the honest services conspiracy in late 2011 and into 2012, Jackson  
28 continued to develop a relationship with UCE 4599, who held himself out as connected to organized

1 crime on the East Coast and as running a marijuana growing operation in Northern California. UCE  
 2 4599 also told Keith Jackson and others that he was interested in purchasing firearms in connection with  
 3 his marijuana operation, which led to a number of defendants, including Keith Jackson, Brandon  
 4 Jackson, Marlon Sullivan, Rinn Rouen, and Barry House selling firearms and other items such as  
 5 ammunition and ballistic vests to UCE 4599.<sup>1</sup>

6 During a meeting with UCE 4599 in August 2012, Jackson informed UCE 4599 that his son,  
 7 later identified as defendant Brandon Jackson, was involved in shipping marijuana to Tennessee and  
 8 reaping significant revenue. Keith Jackson told UCE 4599 that his son was looking for a contact who  
 9 could get large amounts of prescription medication like Oxycotin or Hydrocodone. Approximately one  
 10 month later, Keith Jackson, Brandon Jackson, and Brandon Jackson's partner, Marlon Sullivan, met with  
 11 UCE 4599 at Harris' Steak House and solicited UCE 4599 to set them up with a source for "hard"  
 12 narcotics. Sullivan described to UCE 4599 how he was involved in the trafficking of marijuana,  
 13 cocaine, and prescription pills and was looking for UCE 4599's assistance in providing a source of  
 14 cocaine. UCE 4599 put them off, purportedly until they were ready to handle that type of introduction,  
 15 but actually because the FBI could not go ahead and start providing narcotics to the defendants for their  
 16 trafficking operation. This was the beginning of a cocaine trafficking conspiracy involving Keith  
 17 Jackson, Brandon Jackson, and Marlon Sullivan which continued up until Brandon Jackson and Marlon  
 18 Sullivan were arrested on March 26, 2014 on the East Coast after paying \$275,000 for a shipment of  
 19 cocaine for which they were prepared to take delivery. *See, S.Indict., Count 110.*

20 Concurrent with engaging in this narcotics trafficking conspiracy, Keith Jackson, Brandon  
 21 Jackson, Sullivan, Rouen, and House became involved in selling firearms to UCE 4599. From the  
 22 outset, firearms and narcotics were connected. At a Chee Kung Tong event on March 29, 2013, UCE  
 23 4599 met with a number of people, including Brandon Jackson and Sullivan. Other UCEs were also  
 24 present. The UCEs, Jackson, and Sullivan talked about the fact that Jackson and Sullivan were looking  
 25 to obtain a source of cocaine. Sullivan said that he had narcotics customers in Boston, Connecticut, and  
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27       <sup>1</sup> The information described below regarding various meetings, conversations, and criminal  
 28 activity is not an exhaustive description of all such meetings, conversations, and activities. It is offered  
          as an example to demonstrate the connected-ness between the charges and defendants that the  
          government proposes to try together in the first trial.

1 Delaware. UCE 4599 told the other UCEs that Jackson was working on providing firearms to UCE  
 2 4599 and that the payback to Jackson and Sullivan would come in the form of a connection to the UCEs'  
 3 cocaine supplier.

4 At a meeting on April 4, 2013 with UCE 4599, Keith Jackson and Brandon Jackson discussed  
 5 matters both in furtherance of selling firearms to UCE 4599 and a bribe to Senator Yee in exchange for  
 6 official action. Brandon Jackson discussed that his source of supply for firearms would have multiple  
 7 assault rifles and handguns available for purchase. Keith Jackson and UCE 4599 talked about the recent  
 8 presentation of the Senate proclamation at the recent Chee Kung Tong dinner and how much money  
 9 Senator Yee expected from UCE 4599 for the proclamation.

10 This is just one of a number of occasions when conversations in furtherance of firearms and  
 11 narcotics trafficking among Keith Jackson, Brandon Jackson, Marlon Sullivan, and UCE 4599  
 12 intersected with discussions and acts in furtherance of the honest services conspiracy. Keith Jackson  
 13 was deeply involved in all of these activities and was earnestly cultivating the relationship with UCE  
 14 4599. He drew Brandon Jackson and Marlon Sullivan in and stayed involved throughout their narcotics  
 15 and firearms dealings with UCE 4599. These defendants eventually drew in defendants Rinn Rouen and  
 16 Barry House as well.

17 After discussing narcotics business with UCE 4599, defendants Keith Jackson, Brandon Jackson,  
 18 and Sullivan agreed to provide firearms to UCE 4599 in exchange for payment. The first sale took place  
 19 on May 6, 2013 (*see*, S.Indict., Count 152). During that transaction, UCE 4599 provided Keith Jackson  
 20 with a check for \$5,000 made payable to "Leland Yee Secretary of State" in payment for the Chee Kung  
 21 Tong Senate proclamation. When Keith Jackson, Brandon Jackson, and Sullivan sold firearms to UCE  
 22 4599 on June 24, 2013, UCE 4599 told Brandon Jackson and Sullivan that he was going to set up a  
 23 meeting with them and UCE 4599's source of supply for cocaine and they discussed the price per  
 24 kilogram of cocaine. When Keith Jackson, Brandon Jackson, and Sullivan sold ballistic vests and more  
 25 firearms to UCE 4599 the next day, June 25, 2013, Brandon Jackson and Sullivan told UCE 4599 that  
 26 they had several more weapons for sale.

27 Between Keith Jackson, Brandon Jackson, and Sullivan, they sold approximately 30 firearms, in  
 28 addition to ammunition and ballistic vests, to UCE 4599 between May 6, 2013 and August 26, 2013. At

1 least one of the sources for the firearms was defendant Rinn Roeun. During the meeting for the May 6,  
 2 2013 sale of firearms to UCE 4599, Brandon Jackson said that he was having problems procuring  
 3 weapons from his source of supply and advised that he had another source who was more reliable. At a  
 4 meeting between UCE 4599, Keith Jackson, and Brandon Jackson on August 2, 2013, Brandon Jackson  
 5 talked about the opportunity to buy several weapons from Brandon Jackson's source of supply,  
 6 identified as "Rinn." Brandon Jackson told UCE 4599 that he would receive the weapons from Rinn the  
 7 following Monday.

8 It was during this same conversation that Keith Jackson first mentioned to UCE 4599 that  
 9 Senator Yee was associated with an unidentified Russian individual who was an international arms  
 10 dealer. According to Jackson, the Russian arms dealer was currently shipping large stockpiles of  
 11 weapons into a foreign country. UCE 4599 expressed interest and told Keith Jackson that he would pay  
 12 Senator Yee and Jackson if they could facilitate a successful arms sale to UCE 4599. During the same  
 13 conversation, UCE 4599 and Brandon Jackson continued to discuss UCE 4599's interest in purchasing  
 14 firearms from Brandon Jackson and UCE 4599 introducing Brandon Jackson to UCE 4599's source of  
 15 supply for cocaine.

16 Three days later, on August 5, 2013, UCE 4599 met with Keith Jackson and Brandon Jackson,  
 17 who sold UCE 4599 more firearms. See, S.Indict., Count 165. Brandon Jackson told UCE 4599 that his  
 18 source had additional firearms for sale. Keith Jackson told UCE 4599 that he spoke with Senator Yee  
 19 about introducing UCE 4599 to Yee's associate, the Russian arms dealer. Jackson stated that in return,  
 20 Senator Yee requested that UCE 4599 raise an unspecified amount of money for Senator Yee's  
 21 Secretary of State campaign. UCE 4599 said he would make a contribution to the campaign in exchange  
 22 for an initial meeting with the dealer. UCE 4599 added that he would contribute more money if arms  
 23 deals were successful.

24 When Keith Jackson and Brandon Jackson sold more firearms to UCE 4599 on August 8, 2013,  
 25 (S.Indict., Count 166), Brandon Jackson and UCE 4599 discussed setting up a dinner with Brandon's  
 26 source of supply, Rinn. On the other firearms supply front, Keith Jackson told UCE 4599 that he and  
 27 Senator Yee would be meeting with the Russian arms dealer that evening. Jackson told UCE 4599 that  
 28

1 if he set up a meeting between the Russian and UCE 4599, Jackson wanted \$2,000. He also said that  
2 Senator Yee would want a donation after the meeting.

3 Three days later, on August 11, 2013, UCE 4599 met with Keith Jackson, Brandon Jackson, and  
4 Sullivan, during which they discussed the sales of firearms, setting up a cocaine transaction, and the  
5 Russian arms trafficker.

6 The evidence thus shows that the weapons conspiracy between Keith Jackson, Senator Yee, and  
7 ultimately Wilson Lim, naturally evolved out of the firearms and drug conspiracy relationship that had  
8 developed between Keith Jackson, Brandon Jackson, and Sullivan. The facts, motives, and evidence are  
9 intertwined and the weapons conspiracy cannot be explained without understanding the context and  
10 circumstances out of which it evolved.

11 While defendant Wilson Lim was not the original arms dealer described by Keith Jackson to  
12 UCE 4599, the discussions and actions in furtherance of that conspiracy continued through the rest of  
13 2013 and into 2014. When the Russian arms dealer would not meet with UCE 4599, Keith Jackson and  
14 Senator Yee came up with Wilson Lim, an alternate source of weapons who had connections in the  
15 Philippines. These discussions and actions continued to intersect with the cocaine conspiracy in which  
16 Keith Jackson, Brandon Jackson, and Sullivan were engaging. For instance, on December 3, 2013, UCE  
17 4599 and Keith Jackson met and discussed how much cocaine Brandon Jackson and Sullivan were  
18 prepared to purchase (ten kilograms) at what price. Keith Jackson also reported progress in setting up a  
19 meeting between UCE 4599 and the Russian arms dealer. At a meeting with UCE 4599 on December  
20 10, 2013, in the presence of Brandon Jackson and Sullivan, during which they discussed the cocaine  
21 transactions, Keith Jackson told UCE 4599 that Senator Yee wanted \$5,000 in the form of a campaign  
22 contribution for facilitating a meeting between UCE 4599 and the arms dealer. At another meeting  
23 between UCE 4599, Keith Jackson, and Brandon Jackson on December 13, 2013, during which they  
24 discussed the cocaine deal, UCE 4599 provided Keith Jackson with \$1,000 as incentive for setting up a  
25 meeting with the arms dealer. It was during this meeting that Keith Jackson stated that Senator Yee  
26 knew two individuals, one of whom was Wilson Lim, who were potential sources of weapons and who  
27 had contacts in the Philippines. At a meeting with Keith Jackson and Sullivan on December 17, 2013,  
28

1 UCE 4599 provided Keith Jackson with a \$5,000 check made payable to Senator Yee's Secretary of  
 2 State campaign in exchange for setting up a meeting with the Russian arms dealer.

3 As events moved into 2014, the cocaine conspiracy became even more tied to Keith Jackson's  
 4 offer to connect UCE 4599 with Senator Yee's source of firearms. As a meeting with the arms dealer  
 5 kept being postponed, UCE 4599 informed Keith Jackson and Brandon Jackson that the cocaine deal  
 6 would be delayed until the meeting with the arms dealer materialized. Eventually, there were several  
 7 meetings between UCE 4599, Keith Jackson, and Senator Yee in which Senator Yee discussed both the  
 8 Russian arms dealer and Lim. Senator Yee subsequently introduced UCE 4599 to Lim, UCE 4599  
 9 provided Senator Yee and Jackson with a list of the weapons he was seeking to buy, and UCE 4599 paid  
 10 Senator Yee \$6,800 in cash on March 14, 2014.

11 In the midst of, and connected to, these firearms sales to UCE 4599, the conspiracy to set up a  
 12 cocaine deal, and the weapons trafficking conspiracy involving Senator Yee, Keith Jackson, Brandon  
 13 Jackson, and/or Sullivan were involved in other activities: the murder-for-hire conspiracy charged in  
 14 Count 204; introducing defendant Rinn Rouen to UCE 4599, which led to Rouen selling weapons to  
 15 UCE 4599 and engaging in a murder-for-hire plot; and introducing defendant Barry House to UCE  
 16 4599, which led to House selling firearms to UCE 4599.

17 For instance, in the context of the previous firearms sales to UCE 4599, Brandon Jackson  
 18 introduced defendant Rouen, Brandon's source of supply for firearms, to UCE 4599 on August 27,  
 19 2013. At that meeting, Rouen confirmed that he had supplied weapons to Brandon and discussed the  
 20 types of firearms he had available to sell to UCE 4599. When UCE 4599 discussed needing a handgun  
 21 for personal protection, Rouen initiated a conversation about the services he could provide in that realm,  
 22 including killing someone for a price. This conversation, which took place in the presence of and  
 23 involved Brandon Jackson, forms part of the basis of the murder-for-hire charge against Rouen in Count  
 24 174.

25 Rouen's criminal activity was not limited to offering his services in a murder-for-hire. After  
 26 being introduced by Brandon Jackson to UCE 4599 as his firearms source of supply, Rouen sold a total  
 27 of nine firearms and a silencer UCE 4599 on four occasions from September 13, 2013 through February  
 28 26, 2014 (Counts 184, 188, 195, 209).

1       Further, on top of all firearms sales and narcotics trafficking conspiracy in which Keith Jackson,  
2 Brandon Jackson, and Sullivan engaged with UCE 4599, they also participated in their own murder-for-  
3 hire conspiracy, as charged in Count 204. When UCE 4599 and Keith Jackson met on December 3,  
4 2013 (described above), Jackson told UCE 4599 that he had recently met with defendant Barry House.  
5 Jackson pointed to his bicep muscle and told UCE 4599 that if ever needed anything from House, to let  
6 him (Jackson) know. UCE 4599 said he wanted one of his associates killed and asked if House could  
7 assist. Jackson said he would talk to House in person; if he did not get House to assist, Jackson would  
8 ask Rouen. When UCE 4599 offered \$25,000 for the job, Jackson said that Rouen and his associates  
9 had the capabilities to kill people at a cheaper price.

10      Conversations that developed into a murder-for-hire conspiracy involving Keith Jackson,  
11 Brandon Jackson, and Sullivan continued on December 10, 2013 and December 13, 2013, thereby  
12 forming the basis of Count 204 of the Superseding Indictment. Of note, during the December 10  
13 meeting with the three defendants and UCE 4599, and during which they discussed the upcoming  
14 cocaine deal, UCE told the defendants that he needed to have one of his associates killed. Sullivan  
15 offered to carry out the murder and asked for information about the intended target. Sullivan went into  
16 detail as to how he would accomplish the task and whom he would have assist him. UCE 4599 offered  
17 \$10,000 for the operation and thanked Keith Jackson for arranging the meeting and stressed the  
18 importance of keeping it secret. At the December 13, 2013 meeting with UCE 4599 and Brandon  
19 Jackson, Keith Jackson said that he wanted to keep the task “with us.” Brandon Jackson told UCE 4599  
20 that they wanted to gather as much intelligence on the intended target and Sullivan had a contact at  
21 California DMV who could supply a photograph. At a meeting on February 3, 2014 between UCE  
22 4599, Brandon Jackson, and Sullivan, the defendants discussed more details as to how to carry out the  
23 murder-for-hire and the cocaine transaction. Sullivan commented that he was mentally prepared to do  
24 ten years in prison.

25      As noted above, on December 3, 2013, Keith Jackson told UCE 4599 about defendant Barry  
26 House’s ability to provide muscle. This was not the first time Jackson mentioned House to UCE 4599.  
27 More than a year earlier, in November 2012, Jackson told UCE 4599 that House was a member of the  
28 Black Guerilla Family and if UCE 4599 needed security, he should hire House. In June 2013, UCE

1      4599 asked Jackson if House would be a good source of supply for weapons and Jackson replied by  
2      saying that House was more of a street-level supplier. On February 12, 2014, Keith Jackson invited  
3      UCE 4599 to attend a sporting event with House in Oakland. At the meeting between Jackson, UCE  
4      4599, and House, House told UCE 4599 that he was looking to purchase large quantities of marijuana  
5      and was tired of dealing with low-level criminals. When UCE 4599 asked if House had the ability to  
6      sell weapons to UCE 4599, House responded that he had a source of supply and could initially provide  
7      one assault rifle and one hand gun. House also told UCE 4599 that he had “two goons” who could  
8      provide any type of intimidation or extortion services. In response to an inquiry by UCE 4599, House  
9      assured him that his associates could easily damage the vehicle of one of UCE 4599’s associates to send  
10     a message. Jackson continued to be a conduit for the gun transaction that developed between House and  
11     UCE 4599. On March 20, 2014, Jackson provided UCE 4599 with a handgun on behalf of House. On  
12     March 21, 2014, Jackson delivered an assault rifle with a drilled out serial number to UCE 4599 on  
13     behalf of House. Jackson told UCE 4599 that his partner, Pam Gilmore, drove both House and Jackson  
14     to Vallejo to pick up the rifle. (See, S.Indict., Counts 210-212).

15       As this description of just some of the evidence makes clear, the government’s proposal to try  
16     the counts and defendants listed in Part B, above, together in the first trial is logical and feasible, and is  
17     necessary in terms of the way the evidence of the offenses is connected. The weapons conspiracy  
18     referenced in the RICO in Count Two developed directly out of, and cannot be explained without full  
19     description of, the firearms and gun trafficking conspiracy between Keith Jackson, Brandon Jackson,  
20     and Sullivan. The murder-for-hire conspiracy between Keith Jackson, Brandon Jackson, and Sullivan  
21     cannot be explained outside the context of the narcotics and firearm deals in which they engaged with  
22     UCE 4599. Similarly, all of those activities are connected to and led to the firearms deals with Rouen  
23     and House, and the murder-for-hire plot with Rouen. In fact, Keith Jackson is charged with House in  
24     the firearms transactions with UCE 4599.

25       Thus, even if the Court restricted the first trial solely to the RICO in Count Two alone – which  
26     would be a huge waste of judicial, governmental, and juror resources – all of these transactions and the  
27     resulting relationship would be “inextricably intertwined,” and therefore admissible, with the proof of  
28     Count Two. “Evidence of prior bad acts may be admitted ‘for the purpose of providing the context in

1 which the charged crime occurred.’ Evidence of other bad acts that is ‘inextricably intertwined’ with the  
 2 underlying offense is admissible under Fed. R. Evid. 404(b). Evidence is ‘inextricably intertwined’ if it  
 3 ‘constitutes a part of the transaction that serves as a basis for the criminal charge,’ or ‘was necessary to .  
 4 . . permit the prosecutor to offer a coherent and comprehensible story regarding the commission of the  
 5 crime.”” *United States v. Rrapi*, 175 F.3d 742, 748-49 (9<sup>th</sup> Cir. 1999) (quoting *United States v. Collins*,  
 6 90 F.3d 1420, 1428 (9<sup>th</sup> Cir. 1996); *United States v. Warren*, 25 F.3d 890, 895 (9<sup>th</sup> Cir. 1994); *United*  
 7 *States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012-13 (9<sup>th</sup> Cir. 1995)).

8 In addition, if any defendant were to claim entrapment as a defense, then predisposition becomes  
 9 relevant and all of these transactions clearly demonstrate predisposition. “If the defendant is found to be  
 10 predisposed to commit a crime, an entrapment defense is unavailable regardless of the inducement.”  
 11 *United States v. McClelland*, 72 F.3d 717, 722 (9<sup>th</sup> Cir. 1991). The predisposition of defendant Keith  
 12 Jackson will also be relevant to defendant Yee’s defense since there is no “indirect entrapment” in the  
 13 Ninth Circuit. In other words, defendant Yee cannot defend on the basis that he was induced by  
 14 defendant Keith Jackson who was working with UCE 4599, since defendant Keith Jackson was  
 15 obviously never a government agent.

16 Since the conversations that led up to and culminated with the weapons dealing conspiracy  
 17 portion of Count Two would be admissible to try Count Two, the substantive charges suggested by the  
 18 government would add very little to the overall evidence that would be admitted at this first trial. The  
 19 actual firearms sales are discrete offenses and, as demonstrated above, all of Keith Jackson’s discussions  
 20 to set up and then follow through on the firearms sales are obviously relevant and admissible to the  
 21 weapons conspiracy.

22 Similarly, the narcotics conspiracy was wrapped inextricably with the weapons dealing  
 23 conspiracy. Further, as UCE 4599 pushed to have a meeting with Senator Yee’s sources of weapons, he  
 24 conditioned the conclusion of the narcotics deal on such meetings. It would actually be impossible to  
 25 accurately present the weapons deal outside of the context of the narcotics deal. Since the conversations  
 26 would be admitted to show the relationship between UCE 4599 and Keith Jackson, the only additional  
 27 evidence at trial with the addition of the narcotics conspiracy count would be the eventual arrests of  
 28 Sullivan – who had provided \$275,000 in cash for delivery of cocaine and then picked up what he

1 believed was the cocaine in New Jersey – and Brandon Jackson – who was arrested while traveling to  
 2 the “stash house” that was set up in Connecticut for the cocaine.

3 Defendant House’s evidence is wrapped up in the evidence against Keith Jackson as they worked  
 4 in concert to sell an assault rifle and a pistol to UCE 4599 for \$1400 cash. That was a single transaction  
 5 provable through several discrete conversations and the delivery of the firearms by defendant Keith  
 6 Jackson. Defendant Roeun’s evidence is intertwined with that against Keith Jackson, Brandon Jackson,  
 7 and Sullivan. Roeun was introduced to UCE 4599 through those other defendants and they discussed  
 8 that Roeun had been a source for firearms furnished by the other defendants to UCE 4599. Rouen’s are  
 9 also discrete transactions involving several conversations and then meetings to exchange firearms for  
 10 money.

11 It is was squarely within the context of these drug and firearms transactions that Keith Jackson  
 12 offered to assist UCE 4599 with obtaining large quantities of military weapons with the assistance of  
 13 Senator Yee and others. What Keith Jackson calls “a fantastical conspiracy” in his pleadings, Def.’s  
 14 Mot. to Dismiss Firearms Counts, at 6, was not “fantastical” precisely because of the existing  
 15 relationship. Undoubtedly, Keith Jackson wants to argue to a jury that the conspiracy was so fantastical  
 16 that it was never really contemplated: “the government alleges that a state senator, political consultant,  
 17 and local dentist had the intent and the means to embark on a conspiracy to import a cache of weapons  
 18 from the Philippines for resale in the United States.” Def.’s Mot. at 6. The true relationship between  
 19 Keith Jackson, his co-conspirators, and UCE 4599 will demonstrate to a jury that this scheme was not  
 20 fantastical, it was actually not even the most abhorrent conspiracy that Keith Jackson engaged in while  
 21 pursuing money.

22 Finally, the government has heard much complaining by certain defendants that they require  
 23 severance from Count One because that portion of the case will supposedly take a long time to try. The  
 24 government expects that Brandon Jackson, Sullivan, Rouen, and House will have no objection to the  
 25 proposal that they be tried with Senator Yee and Keith Jackson, as that will ensure a relatively quick  
 26 trial for them. While it is unfortunate that Keith Jackson, Brandon Jackson and Sullivan will also have  
 27 to be tried in a subsequent trial of Count One, the government suspects that resolution of the rest of the  
 28

1 charges against those three defendants will likely result in a negotiated resolution as to Count One for  
2 them.

3 **IV. CONCLUSION**

4 The goal of judicial economy weighs heavily in favor of trying these additional defendants and  
5 counts with Senator Yee and Keith Jackson. Otherwise, the Court will wind up conducting two or more  
6 separate trials that are dominated by the introduction of very similar, if not identical, evidence. For the  
7 reasons stated, the government respectfully submits this is the proper grouping for the first trial, and  
8 elects to try this group of defendants and counts in the first trial.

9  
10 Dated: November 19, 2014

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11  
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